

CITY OF MORGAN HILL
JOINT REGULAR CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES - JUNE 6, 2001

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting at 7:09 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Chang, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor Kennedy, Pastor Charles Youngkin led the Pledge of Allegiance.

CITY COUNCIL REPORT

Council Member Chang indicated that she attended an ABAG meeting a few months ago where the budget and Smart Growth were discussed, however, energy was not addressed. She stated that the South County Regional Wastewater Authority is co-owned by the Cities of Morgan Hill and Gilroy. She indicated that the City of Gilroy has approved two Calpine peaker plants at the Gilroy Foods facility. Calpine will be requesting the use of treated wastewater for the peaker plants, a good use of reclaimed wastewater. She said that the peaker plants would help get additional energy into the system and may help rates.

CITY MANAGER'S REPORT

City Manager Tewes reported that Congresswoman Zoe Lofgren donated a flag that flew over the Capital to Council Member Chang. Said flag is being displayed in the Council Chambers. Also, being displayed is the City Flag referenced by Mayor Kennedy. He reported on Senate Bill 910 sponsored by Senator Joe Dunn of Orange County that the City Council has gone on record in opposition. He informed the City Council that this bill passed the Senate floor by 22 votes. He stated that Senator McPherson voted against the bill as requested by the City. This bill would impose penalties on cities who fail to have an approved Housing Element by the State Department of Housing and Community Development. The bill would give state bureaucrats the responsibility of determining whether or not a city has a good housing element (rather than providing incentives for meeting housing needs, it provides penalties). The bill will be amended to state that penalties will be in the form of reduction in general fund revenues. This would be a reduction in motor vehicle license fee revenues. The next stop for the bill is the Housing Assembly Committee. He was not optimistic that the bill would stop here and that it is hoped that the bill would turn into a two-

year bill to allow for a statewide process to come with more responsible reform to the Housing Element Law.

CITY ATTORNEY'S REPORT

City Attorney Leichter indicated that she did not have a City Attorney's Report to present this evening.

PUBLIC COMMENTS

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on the agenda.

Bill Brown, elected Board Chairman of the Morgan Hill Community Health Foundation, presented a report on the non-profit Morgan Hill Community Health Foundation. He indicated that the first meeting was held on April 3 at which time the temporary board members were appointed and the election of officers took place. Since that time, the Foundation has been meeting more than twice a month. There are 7 directors, 1 alternate director, and 3 ex officio directors on the Board. In this two month period, the Board has set up the corporation, adopted bylaws, and submitted the 501C3 application for charitable status. A goal has been adopted to have a permanent board in place by August 1, 2001. He stated that four standing committees have been established with reports due to the full board in two weeks. He identified the adopted Mission and Vision Statements. He said that the organization is working toward increase availability of healthcare in the community. The Foundation's preferred vision is that the former St. Louise campus serve as a vital centerpiece of the Morgan Hill community healthcare system. The Foundation is seeking deductible charitable contributions. One of the standing committees has the charge of setting up a program to solicit such contributions. He indicated that the Foundation has retained an Executive Director, John Ray, who comes to the Foundation with more than 20 years in healthcare management. He said that the Foundation believes that its goals are of great benefit to the citizens of Morgan Hill and the surrounding area. The Foundation hopes to be able to solicit cooperation and assistance in making goals come to fruition. He informed the City Council that the Foundation Board will report back to the City Council within 90 days as progress takes place. He indicated that three board members were in attendance this evening: Glenda Garcia, Secretary to the Board; Dr. Ted Roussere, representing the physicians in the area; and Joe Mueller, alternate director.

John Ray stated that his first observation is how dedicated, serious and sophisticated the Board Members are in terms of time and effort being put in. He stated that he would do his best to assist the Foundation in achieving its mission.

Mayor Kennedy stated that Monday evening, he and Council Member Chang attended a sports banquet held at the James Boys Ranch. He said that it was a touching and moving event that recognized individuals under the age of 18 who are in detention as a result of various crimes committed. James Boys Ranch staff work with the boys to give them a healthy and wholesome environment and a second chance. He said that their sports program is a way of building a sense of teamwork and self esteem. He said that the sports program is at a risk of being eliminated and that this would be a terrible loss to the community and youth, putting these youth further at risk. He requested that the City Manager agendaize the discussion of how the City of Morgan Hill can help

in this process at a future meeting. He called the attention of the public to this critical need. He indicated that the Boys Ranch is short of money and funding to keep their programs running. He said that many religious groups in the community are participating as are the Rotary and the Veterans of Foreign Wars. However, additional community support is needed to ensure that the worthwhile programs are not eliminated.

Council Member Chang stated that she was advised today by Code Enforcement Officer Steve Pennington that all repair works have been completed at Las Cases de San Pedro. She thanked the City Attorney, City Manager and staff for their efforts.

Mayor Kennedy thanked his wife Eileen for taking the leadership role in calling the Las Casas de San Pedro problems to the attention of the City Council and staff. He said that senior abuse was discovered with a manager being convicted of felony senior abuse among other problems that were uncovered. He also thanked staff for assisting the residents with these problems.

No further comments were offered.

City Council Action

CONSENT CALENDAR:

City Manager Tewes requested that Consent Item 5 be pulled from the agenda, indicating that it would be brought back at a later date. He informed the City Council that staff would need to advise the City Council of a piece of information on item 9. Mayor Pro Tempore Sellers indicated that he had a question associated with Consent Calendar Item 9. Mayor Kennedy requested that Item 6 be removed from the Consent Calendar.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) approved Consent Calendar Items 1-4, 7 and 8.*

1. **APPROVAL OF PROFESSIONAL SERVICES CONTRACT FOR PRE-CONSTRUCTION MANAGEMENT SERVICES FOR THE COMMUNITY CENTER PROJECT**

Action: *Authorized the City Manager to Execute a Consultant Services Agreement for Pre-Construction Management Services for the Community Center Project at a Cost Not to Exceed \$55,560 with Consolidated CM.*

2. **RESOLUTION DECLARING BRUSH TO BE A NUISANCE - Resolution No. 5480**

Action: *Adopted Resolution No. 5480, Declaring Brush to be a Nuisance and Setting June 20, 2001 as the Date for the Public Hearing Regarding Brush Abatement.*

Note: The City Council rescinded its motion at the conclusion of the closed session.

3. **ACCEPTANCE OF PUBLIC IMPROVEMENTS AT THE NORTHEAST CORNER OF TENNANT AND MONTEREY (RITE-AID) - Resolution No. 5481**

Actions: *1) Adopted Resolution No. 5481, Accepting the Public Improvements for Rite-Aid, and 2) Directed the City Clerk to File a Notice of Completion with the County Recorder's Office.*

4. **FINAL MAP ACCEPTANCE FOR SAN VICENTE ESTATES (TRACT 9227)**
*Actions: 1) **Approved** the Final Map, Subdivision Agreement and Improvement Plans, 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City and 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement following Recordation of the Development Improvement Agreement.*
7. **APPROVAL OF IMPROVEMENT AGREEMENT WITH SHADOW MOUNTAIN BAPTIST CHURCH - HALE AVENUE (APN 764-21-005)**
*Action: **Approved** the Improvement Agreement and **Authorized** the City Manager to Sign the Agreement on Behalf of the City with Shadow Mountain Baptist Church (APN 764-21-005).*
8. **LEAGUE OF CALIFORNIA CITIES GRASSROOTS NETWORK**
*Action: **Authorized** the Mayor to vote in Support of the League of California Cities' Proposed Bylaw Change Establishing the Grassroots Network.*
5. **DEVELOPMENT IMPACT FEE INFLATIONARY AUTOMATIC INCREASE**
*Actions: **Pulled** from the agenda (to return to the City Council at a later date)*
6. **SUBDIVISION APPLICATION SD-01-02: EAST DUNNE - TROVARE**
*Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council on a 4-0-1 vote (Mayor Kennedy abstaining) **Took No Action**, Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.*
9. **FISCAL YEAR CONSULTANT AGREEMENT WITH CARL MILEFF & ASSOCIATES AND CERTIFIED INSPECTIONS & CODE CONSULTANTS FOR PLAN CHECKING SERVICES**

City Manager Tewes stated that staff is recommending the approval of an annual contract for plan checking services. He recommended that the City Council's authorization tonight be subject to an appropriation for next fiscal year (authorization contingent upon the approval of a FY 2001-02 budget.)

Mayor Pro Tempore Sellers felt that these are needed services as they assist the community in processing projects faster. He asked how these groups interact with the planning department? He stated that he wanted to make sure that these firms are dealing with the most standard processing.

Director of Community Development Bischoff stated that these firms are used for plan checking services of commercial projects and for projects that need fast tracking. He said that these are firms that the City has been using for a number of years and that staff has been satisfied with their services. He said that there is always dialogue between the firms and city staff.

Mayor Pro Tempore Sellers stated that he wanted to make sure that when there are issues that need to be resolved that there is always city staff involvement. Mr. Bischoff advised the City Council that if there are concerns, the project applicant addresses their concerns with staff.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0): 1) **Approved** a New Fiscal Year Contract with Carl Mileff & Associates for the Amount of \$60,000; 2) **Approved** a New Fiscal Year Contract with Certified Code Consultants for the Amount of \$40,000; 3) **Authorized** the City Manager to Execute the Contracts; and 4) these **approvals are contingent** upon the approval of FY2001-02 budget by the City Council.*

PUBLIC HEARINGS:

10. DEVELOPMENT AGREEMENT APPLICATION, DA-01-01: E. DUNNE - TROVARE PHASE III - Ordinance No. 1511, New Series

Mayor Kennedy recused himself from this item due to a conflict of interest.

Director of Community Development Bischoff presented the staff report.

Mayor Pro Tempore Sellers opened the public hearing. Wayne O'Connell, representing the Trovare project, informed the City Council that this is the third and final phase of the project and that he would answer any questions that the City Council may have. No further comments being offered, the public hearing was closed.

Council Member Tate stated that the Trovare project is located adjacent to the Morgan Meadows project, noting that the Morgan Meadows project widened Dunne Avenue and that it would not be widened for the Trovare project. He said that he understood why the widening of Dunne could not be done at the same time. He recommended that whenever the city can get the maximum amount of widening, that it be done as soon as possible as an objective in the future.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0-1 vote with Mayor Kennedy abstaining, **Waived** the Reading in Full of Ordinance No. 1511, New Series, Approving the Development Agreement.*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council **introduced** Ordinance No. 1511, New Series as follows; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR A 14-UNIT PORTION OF A SINGLE-FAMILY HOUSING PROJECT ON A 20-ACRE SITE LOCATED ON THE SOUTH SIDE OF EAST DUNNE AVENUE, ADJACENT TO THE EAST SIDE OF THE CHURCH LOCATED AT 1790 EAST DUNNE AVENUE (APN 817-19-009 AND 049) by the following roll call vote: AYES: Carr, Chang, Sellers, Tate; NOES: None; ABSTAIN: Kennedy; ABSENT: None.*

Mayor Kennedy resumed his seat on the dias.

11. OUT OF AGENCY SERVICE REQUEST, OSR-01-05: MONTEREY - MORGAN HILL BIBLE CHURCH

Director of Community Development Bischoff presented the staff report. He addressed the

property's proximity to the City's Urban Service Area and City limits, including the proximity of existing sewer and water lines.

Mayor Kennedy opened the public hearing.

Pastor Charles Youngkin, Morgan Hill Bible Church, requested that the City partner and support in the work of the Church by granting sewer and water to the Church site. He indicated that the Church has been a part of the community for 18 years. The Church provides counseling services to church members as well as to members of the community for a small fee. He indicated that the Church has maxed out the existing building facility and has run out of room to house its ministry. The Church wishes to stay at its present location but that there are road blocks that prohibit expansion. He said that County ordinance limits the Church to 10,000 square feet of building. Supervisor Gage has indicated that the County Board of Supervisors are in the process of revisiting this ordinance. Supervisor Gage recommended that while the Church is waiting for the ordinance to be revisited, it should pursue City services of water and sewer that would allow the Church to maximize the use of the property. City services would also poise the property for possible annexation into the City. Having City water would ensure the Church of having the proper flow and volume necessary to meet fire code and having City sewer would allow the Church to designate the maximum amount of land for building as well as protect the water supply from contamination. He informed the City Council that the Church has support groups that meet throughout the week which requires more rooms, buildings and space to house the ministry. The Church congregation would like to build a multi-purpose building that would house a gymnasium that can be used by the community.

Keith Higgins, member of the Morgan Hill Bible Church and traffic engineer, stated that a crises does not exist on the septic system or well at this time. He stated that the Church will continue to grow in population regardless of the facilities, including ministries. He noted that Monterey Road is in the City limits, therefore, the Church borders the City limits. It would only require the installation of a lateral to get sewer service to the Church site. He stated that a water line would need to be installed to connect to the water line that stubs at John Wilson Way. He addressed traffic associated with Church services.

Mayor Kennedy asked if the Church would be willing to enter into an agreement to annex the property into the City limits at a future date should the City provide services? Both Mr. Higgins and Pastor Youngkin stated that the Church would be happy to participate in annexation, if appropriate, and based upon Measure P as other properties would need to be annexed as well.

Mayor Pro Tempore Sellers stated that should the City Council agree to support the Church's request, that it be contingent upon approval of a County ordinance amendment relating to the 10,000 square foot limitation.

Council Member Carr stated his support of the request contingent upon the County amending its ordinance or a variance being granted.

City Attorney Leichter stated that the City Council would need to find that there are unique circumstances such that the public benefits outweigh the negative aspect of decentralization of services. She noted that one of the conditions in the City Council policy states that should the use or ownership change, the services would be abandoned. If the City Council has determined that it

would like to grant the request, she stated that she would like to amend the resolution to incorporate some of the findings that describe the unique circumstances and public benefits as presented by Pastor Youngkin and Mr. Higgins' testimony this evening. She pointed out that the City has a pre annexation agreement that delineates conditions such as driveway and curb cuts that are subject to the Public Works Director's approval, consent to annex and a covenant to abide by City zoning.

No further comments being offered, the public hearing was closed.

Mayor Kennedy felt that the services offered by the Church differ from some of the other proposals in the County (churches coming in from an outside the area due to high cost of land in urban areas). He felt that this case is different from many of those because this is a locally serving religious community group that currently exists. He stated that he would be supporting the request, encouraging LAFCo's approval as well so that the Church can proceed with the expansion of their facilities in the community.

Council Member Tate stated that he was sympathetic to the request as he understands the benefits. However, in looking at the January 15, 1997 City Council Policy and Procedures relating to provision of water and sewer services outside the city limits, there are three ways that the City Council can approve services under the policies and procedures. He stated that he could not find unique circumstances such as public benefits of the proposed project that outweigh the negative aspects of the continued decentralization of city services. He reads public benefits to mean the public in general. If this is not the appropriate interpretation, he recommended that the policy be clarified. He stated that he could not make a finding for a specific religious institution that constitutes a public benefit. He stated that he could not support the request at this time because the existing policies and procedures do not support it.

Mayor Kennedy felt that under the issue of public health and safety, septic tanks are not the most healthy and safe way of handling sewer services as they oftentimes fail and contaminate the drinking water system. He stated that this would be the primary basis under the City's policy that he would support providing the extension of services.

Council Member Tate felt that approval would be opening the door to every single septic system in the County that wants city services if the Council makes the Mayor's recommended finding.

Mayor Pro Tempore Sellers stated that in looking at the map, there are properties located in and out of the city limits. He said that he focused on the issue of "outweighing the negative aspects of continued decentralization and public benefits." He stated that he could not find negative aspects of decentralization and found that there was some public benefit. He felt that an exception could be made in this case as the property is located in a unique location in town. He kept in mind the Kawahara situation and its uniqueness and that he was hoping that the Council would not be considering a situation like it again. He stated that he could support the request subject to clarification of the public benefit definition.

City Attorney Leichter said that in the Kawahara case, the City Council had discussion about the continued economic viability of the long standing Morgan Hill business as a public benefit to be served by continuing the use. In this case, the City could argue that public benefits would include the type of social services that the Church is expecting to expand through this project to the extent

that they serve the general public as opposed to their own congregation. She felt that there are public benefits associated with the promotion of a religious community.

Council Member Sellers asked if staff was aware of a precedent being set that public health and safety problems have in the past included sewer? City Attorney Leichter stated that it was her recollection that the City Council approved services to a lot based on a septic tank failure as the septic tank could not be replaced because of the water table. She informed the City Council that it can find, under policy 2, that conditions exist to grant the request.

Council Member Carr said that he had concerns when he first read the staff report. However, based on the comments of Pastor Youngkin, some of his concerns have gone away. Should the City agree to provide services to the site and the congregation decides to relocate in the future, the site located outside the city limits would have city sewer and water. He noted that the City Attorney has clarified that the use would be eliminated should the Church relocate. He noted that Pastor Youngkin has stated that the congregation wants to stay on this site and that city services would help them remain at this site. He felt that this would be a public benefit. He agreed that this is an interesting area on the City limits map. He stated that he has problems following the lines in determining what is in and out of the City limits. He felt that providing city services to this area may help bring other parts into the city limits and be considered a public benefit. Also, this area is a gateway into Morgan Hill and should be considered a public benefit. He stated that he would be supportive of the request linking it to the County's discussion of whether they would grant a variance to the site or amend their ordinance. Should the County not be willing to do either, he recommended that discussion be opened up at that time.

Council Member Tate said that he would like to explore the definition of public benefit further and see if it could be codified into the City Council's policies and procedures.

Mayor Pro Tempore Sellers noted that the City Attorney would like to return with some clarification. He recommended that staff be directed to return with a definition of public benefit.

Council Member Chang did not recommend that the policy be made so flexible that it would allow others in the area to request services.

Pastor Youngkin stated that he was not comfortable with tying City approval to the County's ordinance as having city sewer and water allows the Church to maximize its property.

Action: *On a motion by Council Member Chang and seconded by Council Member Carr, the City Council, on a 4-1 vote with Council Member Tate voting no, **continued** this item for two weeks and **directed** staff to return with a resolution to address the items that have been made.*

City Manager Tewes noted that this is the third request in a year where staff has come before the City Council not able to make a recommendation. The Council has struggled with the requests but ultimately approved them. He indicated that staff would like to provide as much clarity to applicants as it can as staff looks at the policy in one way and the Council is seeing it a different way. He felt that it would be appropriate to have Council discussion about the appropriate policy so that staff can deal with its customers in a direct way at the onset. He recommended that the City Council give

consideration as to what the ultimate policy should be. He advised the City Council that there are a number of other requests in the wings coming through that staff would not be able to recommend under the current policy but that the Council may ultimately consider. He stated that staff would like to return in 60-90 days with a policy for Council consideration.

Mayor Kennedy supported staff's recommendation to return in 60-90 days. He felt that consideration should be given to the criteria versus specific policies as policies do not allow consideration of a variance. He would also support a process for a variance.

Action: *It was the consensus of the City Council to **direct** staff to return with the policy relating to provision of city services in 60-90 days.*

Action: *It was the consensus of the City Council to consider Agenda Item 23 at this time.*

Redevelopment Agency Action

OTHER BUSINESS:

23. REQUEST FOR ASSISTANCE FROM THE MORGAN HILL CHARTER SCHOOL

Agency Member Sellers indicated that he was an interim board member of the Charter School, a non paid position. He has not decided whether his children would be attending this school. If there is any question relating to a conflict, it was his belief that it is best to step down and not proceed with an item as the public trust is far more important than any single vote to be taken. Therefore, he would be stepping down from discussion of this item.

Director of Business Assistance and Housing Services Toy presented the staff report. He addressed the criteria and guidelines for providing business assistance.

Chairman Kennedy requested that staff address the parallels associated with this request for funding and that of the funding given to Gavilan College for a campus at the Community Center.

Mr. Toy stated that Agency funds can be used as a grant if used for public improvements installed by an agency (e.g. streets, public facilities, etc.). Gavilan College is considered a governmental entity and would qualify for public improvements under the public improvements definition under Redevelopment Law to allow assistance to be in the form of a grant. A charter school is a public school but in essence, a non profit entity. Legal counsel has indicated that non profits would not be eligible for grants but would be eligible for loans.

Executive Director Tewes clarified that a charter school is not a local government agency under the constitution but does have a public purpose. He suggested that there may be other parallels but that one difference is that in the case of Gavilan College, the Redevelopment Agency and the City will provide land and will build a facility as a landlord and rent space at market rates to Gavilan College, thus, an investment on the part of the Agency.

Mr. Toy indicated that legal counsel could not make the analysis that a charter school qualified as

a school district, noting that a school district would qualify to receive monies for public improvements under California Redevelopment Law.

Agency Member Tate noted that staff has indicated that charter schools are funded through the state but that funding does not include all start up costs for initial construction. He asked if school districts fund start up costs? Mr. Toy stated that it was his understanding that the Charter School has some funding from the state for some start up/operational costs but that this school district would not be providing funds for start up costs.

Agency Member Chang asked what improvements would need to be done to the Thrifty commercial building if converted to a school (e.g., rezone).

Agency Counsel Leichter stated that in reading the Charter School Act and speaking to the school's attorney who specializes in charter schools, this is a gray area as to whether charter schools are exempt from local zoning. She said that the legislature was not precise when they passed the Charter Schools Act. The attorney stated that the local school district could adopt a resolution stating that the Charter School comes under its exemption from local agency zoning. She said that there is an open question as to whether the Charter School would have to comply with the local zoning district, noting that the property is zoned commercial at this time.

Chairman Kennedy opened the floor to public comment.

Mary Smathers, President of the Launch Board of Directors for Morgan Hill Charter School, stated that the Charter School looks forward in working with the Agency. The Board sees this as a positive addition to Morgan Hill and feels that the request is a good fit with the RDA. She addressed the many public benefits associated with the project. She indicated that over 50 volunteers of parents, educators, business people, and community members have come together over the past 14 months to develop and implement plans for an elementary and middle school. The charter school is exempt from the restrictions of the Education Code and has flexibility to be innovative and responsive to its constituents. She noted that it is not a private school and cannot charge tuition. A charter school must have a charter or plan of action approved by an existing school board. She indicated that in January 2001, the Morgan Hill Unified School District Board of Trustees unanimously granted this group its charter. School is scheduled to open in the fall of 2001, serving over 200 children from grades K-6 and that within a few years, the school would be fully enrolled at just over 400 children K-8. In order to become a diverse school, she indicated that many outreach efforts have taken place to encourage the enrolment of low income and non English speaking families to attend this school.

Ms. Smathers stated that the old Thrifty facility was selected by the Board as its initial site for the school. She said that the school has long term plans to build a permanent facility within a few years. In order to make the empty former Thrifty building into a workable school, tenant improvements would need to be made at a cost exceeding \$300,000. She stated that the Board is requesting \$300,000 in funds to help make the site a viable location for a school. An RDA contribution would allow the school to open with more than a bare bones operation the first year.

Ms. Smathers indicated that the initial proposal to the RDA was for a grant but that it appears, in discussions by the Board's attorney and the RDA's attorney, that it may not be possible for the RDA to grant funds for a building that is not publicly owned. The Board is not convinced about the final

determination on this issue and that their attorney is still working on this. If it is true that the Charter School would not be able to receive a grant for a building that is being subleased, Charter School would accept the Agency's assistance in the form of a loan. The Charter School would be willing to consider a three year sublease with RiteAid with an option to extend the lease for a year or two beyond this time, if necessary. It is felt that there are many public benefits to this project. This project has always been about creating another positive educational alternative for families. Other benefits include a centrally located site in the downtown area within walking distance to many apartments. Other community groups and organizations will be allowed to use the facility in the afternoon and evening hours. The school would have a positive economic impact on the downtown and the Albertson shopping center; would add new jobs to the community; help revitalize an area by upgrading the center; allows local students to access the school; a positive innovative educational option for current/future residents and future businesses/employers looking into coming into the community; utilizes community resources and interacts with the community.

Ms. Smathers informed the Agency that Charter School has received a \$150,000 grant from the Charter School Division of the State Department of Education to be used for training of employees, initial supplies, staff development and hiring employees before the school start. She indicated that the grant cannot be used for buildings or facilities. Also, a \$250,000 loan has been received from the Charter School section of the Division of the State Department of Education to be used for start up costs in any form. The loan can be used for facilities and capital costs. She indicated that the school does not have other start up funds and that additional funds are not received until students are enrolled. She indicated that the school would receive approximately \$4,500-\$5000 per student per year. She stated that other charter schools have difficulty in attaining start up funding and that typically, grants, loans and bank loans are sought. She indicated that a proposition recently passed states that in a few years, school districts will have to look at their facilities and provide facilities for charter schools, if they have them and if they raise money for a bond issue. The proposition came about due to the fact that the site issue is so difficult to get a school off the ground.

Chairman Kennedy asked what assurances the Agency would have that the Charter School would have the resources to repay the loan?

Ms. Smathers stated that as long as enrollment continues, stable funding would be attained from the state. It is anticipated that the annual operating cost for the first year would total \$1.2 million with revenues at \$1.3 million. She indicated that the Charter School is open to everyone as it is a public school. A lottery would need to take place should there be more children interested in attending than there are enrollment spaces available. She addressed the zoning issue and stated that the Board would apply for an amendment to the PUD in order to extend the zoning to allow the Charter School to go into a commercial space. She agreed that the school district could exempt itself from local zoning regulations and that the Charter School could be included in this exemption. However, the Charter School would prefer going through the zoning process.

Vice-chairman Carr said that the Agency would need to hear from the Charter School's financial counselor as it appears that \$982,000 comes from grants, and contributions, including funding in the amount of \$300,000 from the RDA and the state's Revolving Loan Fund in addition to ADA funding.

Ms. Smathers clarified the funding models and stated that the Board is pursuing an aggressive fund

raising campaign to raise private funds from donations, foundations, corporate sponsorships, etc. She clarified that \$982,000 is from state funding. She said that the revenues assume contributions from the Agency. She indicated that it is proposed to locate the play facility in the parking lot located behind the former Thrifty building. She said that the front of the Thrifty building has a curved area that can be used for a drop off point and that the existing shopping center has the availability of an existing parking lot. She did not believe that businesses would be impacted as the school would be starting at 8:15 a.m., a time when most businesses would not be opened to the public. She indicated that ending school times are staggered and would ease traffic at the end of the day. She said that the Board has not discussed their plans with adjacent businesses but that the Board intends to start building a relationship with the neighbors. She informed the Agency Commission that the Board is in the process of hiring a principal and teachers.

No further comments were offered.

Chairman Kennedy stated that he sees several positive aspects associated with the Charter School beyond its academic value (e.g., revitalization of this location, bringing families and children into the shopping center). Just with Gavilan College being a part of the community center, there is a synergy that works and of value to the community and the surrounding area. He felt that \$300,000 was a large request for funding and that he was not sure, based on the criteria, how this would work. He said that normally, the Agency looks for a return on investment to justify expenditures. Although this is a different type of request, he felt that it would help fill the requirement for the use of RDA funds to remove blight.

Agency Member Tate stated that he was sympathetic and that he would like to see the Charter School succeed. He agreed with Ms. Smathers that it is difficult to get the capital costs in place to make all improvements necessary. However, he could not find justification on spending Agency/City monies on schools as they are funded separately. He offered to volunteer his services to help make the school successful but that he could not support the co mingling of the school with the city. Therefore, he could not support any funding for the Charter School.

Vice-chairman Carr stated that he was surprised to see that this request came before the Agency rather quickly for Agency funding. He understood that starting a Charter School is not over the disappointment with the current school system but affording another opportunity for children and families. From a school's perspective, there was a lot of interest in getting the Charter School started, noting that there has been a lot of discussions with the School District. He stated that he is disappointed that the Agency is being asked to fund a project that it has not been a part of the process up until the actual request for funding. He felt that there may be a way to utilize some funding to help the Charter School get started. He agreed that the state, in passing legislation for charter schools, did not include a lot of dollars. The legislature is trying to change this by doing things such as with the proposition that passed last November that lowered the school bond's threshold to 55%. School Districts that pass bond measures have to provide some space for charter schools. He said that this school district did not pass a bond under this measure and that the Morgan Hill School District is not required to provide space. He noted that the School District does not have dollars to be giving to Charter School for start up costs. He felt that it would take more work if the Agency is going to find a way to provide funding.

Vice-chairman Carr stated that as a Council/Agency Member, he is not interested in getting into the

discussion of site locations but expressed concern with the site selected. While he sees some economic benefits to the shopping center and the removal of some blight, it is being done with an entirely different use, one that needs to be discussed. He noted that the community was not willing to invest the dollars to remove the asbestos from the Morgan Hill Elementary School. Now, the Redevelopment Agency is being asked to place another elementary school in the opposite corner. He felt that there were a series of questions that need to be answered about the budget parameters such as what would be the collateral and how the loan would be paid back. He felt that funding would need to be structured as a loan and that he was not sure how this would be paid back in looking at the three year budget that has been provided. He recommended that this item be continued and that staff be directed to have discussions with the Charter School Board to see if there is a way to work on something that would be comfortable for both organizations. If there is a way to use RDA funds to help with start up costs for the Charter School, he asked if the Board would find it more of a benefit for the start up of the temporary site or would it be a better benefit to think about RDA dollars down the line for a permanent home where the Agency might be able to structure something similar to that done with Gavilan College? The Agency would be able to find more of a public benefit for the use in conjunction with recreational facilities that the Agency may provide or in conjunction with future school sites that the school district would provide. He felt that these were some questions that need to be answered before he is able to move forward in support.

Chairman Kennedy said that he would be inclined to find a way to provide a grant or loan based on matching funds, contingent upon concurrence from adjacent business owners that this is a use that they support. He noted that a criteria for the use of RDA funds is economic benefits and the removal of blight. If there is some connection with the use and the benefits, he could support funding such as \$10,000 based on matching funds.

Agency Member Chang felt that traffic would be an issue and that she did not see the use of the site as a permanent location for the Charter School. She stated that schools are important to her, however, if the Agency grants the funding amount being requested, funding would be for a temporary solution. If this is a temporary solution, she would support granting \$10,000 in matching funds. She felt that there were other things that the Agency could do for the Charter School such as requesting VTA to provide buses to take the students to school. The City could help with the PUD amendment to get the process moving. However, she noted that this is the busiest location in town and did not believe that it was a safe place for students to attend. If the Charter School was to locate at a different location, she may support additional funding.

Chairman Kennedy agreed that there should be some discussion about site location. If the site is a problem, he felt that the Agency owes it to the Charter School Board to offer comments as to what it would be looking for in terms of location.

Vice-chairman Carr noted that this is a temporary use and requested that the timeline be better defined. He recommended that the Agency indicate whether the former Thrifty building is a good site. If it is not, it could cause a delay in the Charter School's ability to open by September. He inquired about the PUD zoning and its timeline in order for the school to be opened in September.

Executive Director Tewes stated that he was surprised to hear tonight that Charter School has chosen the PUD approach as it adds time to the process and that it was his understanding that they wanted to proceed as quickly as possible in order to open by September. Staff has been reviewing with the

Charter School advocates the possibility of a temporary use permit pending the PUD so that they can begin work. He said that it would take several months to get a PUD amendment through the Planning Commission and City Council review.

Agency Member Chang asked if the School District could help the Charter School move forward if the Agency does not object to the zoning?

Agency Counsel Leichter stated that school boards are using a mechanism to exempt charter schools from local zoning. She said that this is not an explicit power in the Charter Schools Act and that it is an open legal question as to whether a school board can exempt a Charter School from local agency zoning.

Executive Director Tewes noted that the advocates have stated that they would prefer not to have the school use their exemption to zoning authority and that it was his understanding that the advocates would prefer to go through the PUD process.

Chairman Kennedy expressed concern with a \$300,000 grant at the requested location because it implies that these funds would be lost. It would be the use of one time funds for the purpose of getting the facility ready for an intended use. He expressed concern that most of the improvements would not be recoverable. He said that he would be willing to consider the approval of a lesser amount based on matching funds with some indication of economic benefits to the surrounding businesses.

Vice-chairman Carr recommended that this item be continued and that staff be directed to work with the Charter School Board to answer questions raised this evening. He also supported the recommendation that staff work with Charter School and businesses in the shopping center.

Agency Member Chang recommended that the Agency approve a \$10,000 loan based on matching funds and allow the Charter School to proceed with a PUD amendment. She felt that the location of the school is a choice that Charter School needs to make and not that of the Agency.

Agency Member Tate stated that he was not concerned with the location selected but felt that if there are planning problems, they need to be addressed.

Action: *Agency Member Chang made a motion, seconded by Chairman Kennedy to **provide** a loan in the amount of \$10,000 in matching funds.*

Agency Member Tate did not understand the urgency of the motion as questions regarding the school's location have not been answered. He felt that the Agency has some serious planning reservations with this location and felt that the Agency would like to tie matching funds to economic benefits.

Agency Member Chang did not believe that they would be able to find another location, go through the process, and open by fall.

Chairman Kennedy stated that it may be better to table the request and allow the applicant and staff to provide the information being requested.

Vice-chairman Carr recommended that staff be allowed flexibility in its discussions with the Charter School Board as \$10,000 may not be worth the volunteer board's ability to answer all questions. The Board may be able to come up with a good plan that defends a larger amount of money.

Action: *Agency Member Chang and Chairman Kennedy **withdrew** their motion.*

Action: *On a motion by Vice-chairman Carr and seconded by Agency Member Chang, the Agency Commission, on a 4-0-1 vote with Agency Member Sellers abstaining, **tabled** this item and **directed** staff to work with the Charter School Board to address the concerns identified.*

Ms. Smathers addressed the issue of site selection and stated that the Charter School Board has spent over eight months looking for a site, conducting an exhaustive search. The Board feels that this is a site that it can afford and start with. She noted that this is a temporary site, one that the Charter School does not intend to stay in for a very long time (three years maximum).

Vice-chairman Carr requested that Charter Board members define a timeline for a permanent facility, noting that in the third year Charter School would not in a better situation than it is today.

Agency Member Sellers resumed his seat on the dias.

City Council Action

12. DEVELOPMENT AGREEMENT APPROVAL AND EXCEPTION TO LOSS OF BUILDING ALLOCATION, DA-00-12: E. DUNNE - GREWEL - Ordinance No. 1512, New Series

Council Member Chang recused herself from this item due to a conflict of interest.

Director of Community Development Bischoff presented the staff report.

Council Member Tate noted that the Planning Commission's vote was 5-2 and that he did not have an understanding why five commissioners supported the request and two did not from reviewing the minutes. He said that it would be helpful to understand why there was opposition, noting that he did not get this sense from the minutes.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0-1 vote with Council Member Chang abstaining, **Waived** the Reading in Full of Ordinance No. 1512, New Series, Approving the Development Agreement.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1512, New Series, by Title Only as*

follows; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT AND A SIX-MONTH EXCEPTION TO THE LOSS OF BUILDING ALLOTMENT FOR A 4-LOT SUBDIVISION WHICH WAS AWARDED ALLOCATIONS THROUGH THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM FOR FY 2000-2001 (ONE UNIT) AND FY 2001-02 (THREE UNITS) (APN 728-11-026) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: Chang; ABSENT: None.

Council Member Chang resumed her seat on the dias.

13. DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-00-03: HALE - SHEA HOMES - Ordinance No. 1513, New Series

Director of Community Development Bischoff presented the staff report. Mayor Kennedy opened the public hearing. Eric Keller, Shea Homes, concurred with staff's recommendation and stated that he would answer any questions that the City Council may have regarding the status of the project. No further comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1513, New Series, Approving the Development Agreement Amendment.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1513 by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1457, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT TO INCORPORATE A ONE YEAR EXCEPTION TO THE LOSS OF BUILDING ALLOCATION FOR APPLICATION MP-99-12: HALE-GLENROCK. (APN 764-09-005, 007, 008, 009, 010 & 014) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

OTHER BUSINESS:

14. EXCEPTION TO LOSS OF BUILDING ALLOCATION, ELBA-01-03: NINA LANE - SHAW - Resolution No. 5483

Director of Community Development Bischoff presented the staff report. Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5483, Granting Exception to Loss of Building Allocation.*

15. EXCEPTION TO LOSS OF BUILDING ALLOCATION, ELBA-01-04: MCLAUGHLIN - JONES - Resolution No. 5484

Council Member Chang recused herself from this item due to a conflict of interest.

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the floor to public comment. Scott Schilling stated that at the time he met with the Planning Commission, a tentative map had been applied for and that a development agreement application was applied for in April. What remains to be applied for is the site and architectural review application to be submitted by July 15. He said that it would take 3-4 months to go through the environmental review and receive planning commission and city council approval of the subdivision. He reviewed the timeline to get through plan check, record a final map, begin offsite improvements and pull building permits by February 2002. This schedule works for the four allocation but does not work for the one allotment for this current fiscal year. He said that he requested a one year extension at the Planning Commission level but that the Planning Commission did not discuss the timeline for the extension. He requested City Council approval of a one year extension of the one allocation so that it can match the timeline before the City Council. No further comments were offered.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0-1 vote with Council Member Chang abstaining, **Adopted** amended Resolution No. 5484, Granting a one year Exception to Loss of Building Allocation.*

Council Member Chang resumed her seat on the dais.

16. PARKS AND RECREATION COMMISSION APPOINTMENTS

Recreation Manager Spier presented the staff report.

Council Member Carr indicated that he and Council Member Chang interviewed six well qualified candidates, not only for Parks and Recreation Commission but for other commissions. In consideration of the appointments, both he and Council Member Chang considered what the Parks and Recreation Commission would be facing in the next couple of years. It was noted that the Parks and Recreation would be working on an aggressive CIP schedule. He noted that the City Council recently adopted a detailed Parks and Recreation Master Plan. Based on the aggressive schedule of moving some of the projects forward, the committee felt that it was important to reappoint the three incumbents: Laura Hagiperos, Craig van Keulen and Rick Page, to the Parks and Recreation Commission in order to continue the work that they started in putting the master plan together. He indicated that the committee is also recommending that the ordinance be strengthened to put a stronger attendance policy in place based on the aggressive workplan that will be seen in the next couple of years. It is recommended that should a commissioner miss two regularly agendaized meetings in a row or three in a year's time, they would be automatically removed without having to come back before the City Council. It is further recommended that the City Council appoint an alternate member, Dan Kenney, who would take the place of any commissioner removed from the Commission.

Council Member Chang felt that Mr. Kenney was a well qualified individual and that he would be a good candidate as a Planning Commissioner or as a member of the Architectural Review Board.

She said that the committee tried to talk him into applying for the planning commission or ARB but that he would not agree to do so.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) 1) **concurred** with the Mayor's appointment of Laura Hagiperos, Rick Page, and Craig van Keulen to the Parks and Recreation Commission for a Term Through May 1, 2003 and appointed Dan Kenney as an alternate; and 2) **directed** staff to return with an ordinance amendment that addresses removal of a commissioner based on failure to attend regularly scheduled meetings.*

17. ARCHITECTURAL AND SITE REVIEW BOARD (ARB) AND PLANNING COMMISSION INTERVIEWS AND APPOINTMENTS (CONTINUED FROM 5/30/01)

Council Member Tate stated that the City Council committee interviewed four very well qualified candidates for the Planning Commission and that there were seven extremely qualified candidates for the ARB, noting that the ARB make up was missing the landscape architect candidate for the ARB until Monday. He indicated that an application was received from Jerry Pyle, a local landscape architect. He stated that there now exists a full compliment to present to the City Council for the ARB. He indicated that the slate that is being recommended for the ARB is as follows: James Fruit (architect); Jerry Pyle (landscape architect); Rod Martin (construction); and John Simon and Yarmila Kennett (general community members). He said that there were a couple of other applicants for the ARB that were extremely well qualified and that he would like to see them stay involved.

Council Member Tate indicated that there were four applicants to fill vacancies on the Planning Commission. He noted that there were a couple of candidates who were interested in serving on the commission who have not been involved with the City before. The Committee decided that the best approach was to take two of the applicants, Gino Acevedo and Robert Benich, and appoint them to the Planning Commission, taking one of the applicants from the ARB and see if the applicant would be willing to serve on the Planning Commission as the applicant has experience serving on the General Plan Task Force. The committee strongly encouraged the other applicants to stay involved and reapply in the future. The recommendation for the three planning commission vacancies were as follows: Gino Acevedo, Robert Benich and Charles Weston.

Mayor Pro Tempore Sellers said that it has been found that there are individuals who may be qualified to serve on another commission. The committee found that to be the case for the ARB. He said that one of the dilemma facing the ARB was the fact that individuals who were involved in that aspect of their business were concerned about conflicts that may arise. The committee found that there may be a potential for conflicts to be more significant on the ARB side versus the planning commission side for Mr. Weston. Yet, the committee felt that his qualifications and years in the community warranted his consideration on the Planning Commission. He reiterated that because the ARB and the Planning Commission are so closely related, he recommended that this process be continued in future years to co-interview candidates together.

Action: *On a motion by Council Member Carr and seconded by Council Member Chang, the*

*City Council unanimously (5-0) **concurred** with Mayor Kennedy's appointment of Geno Acevedo, Charles Benich and Charles Weston to the Planning Commission to Fill Four Year Terms, Expiring June 30, 2005.*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **concurred** with Mayor Kennedy's appointment of James Fruit, Jerry Pyle, Rod Martin, and Yarmila Kennett to serve on the ARB.*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0-1 vote with Council Member Chang abstaining (Mr. Simon's wife works with Council Member Chang), **concurred** with Mayor Kennedy's appointment of John Simon to the ARB.*

18. REQUEST TO ADOPT RESOLUTION SUPPORTING THE PASSAGE OF ASSEMBLY BILL (AB) 1075 AND ENDORSING THE CAMPAIGN TO "FIX CALIFORNIA NURSING HOMES NOW" - Resolution No. 5479

Mayor Kennedy stated that this is an action that has been requested that he strongly supports. He requested that the City Council support the resolution before it. He noted that Senate Bill 1075 would phase in minimum state staffing ratios for nursing homes. He said that this has been a serious issue and that it was an issue that the City should get behind.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Council Member Tate supported the adoption of the resolution.

Council Member Carr stated that he understood the need for this resolution but that he wanted to know how this bill would affect Morgan Hill as a community. He felt that should the City of Morgan Hill support legislation that does not deal with a city matter, the council should know what the affects to the community would be. He asked if the Legislative subcommittee had an opportunity to review this bill?

Mayor Kennedy stated that it was personal experience that there is a shortage of staff at some of the facilities. However, he did not know what the affect would be to local facilities.

Council Member Carr expressed concern that should the City endorse the bill, the Council is stating to nursing homes in Morgan Hill that they should adopt staffing ratios. He said that he was not sure how AB 1075 would be applied and that he would hate to see an assisted living center in Morgan Hill close its doors because of AB 1075.

Council Member Chang stated that both her mother and her in laws were in nursing homes before they passed away. She said that the staffing levels were low and felt that this is a statewide issue. She felt that for humanitarian reasons the City should do everything that it can. She did not believe that the bill would force nursing homes to have designated staffing levels but that it would send a strong message to nursing and assisted care facilities.

Mayor Kennedy stated that as much as he was sympathetic toward business concerns, he felt that there is an overriding issue that requires the City to do something and show support for improvement.

Council Member Carr agreed that there is a need for California nursing homes to have greater guidelines, restrictions and staffing ratios. However, he expressed concern that the Council is stating that these are the staffing ratios that Morgan Hill's nursing homes should be at. He said that he has concern endorsing a piece of legislation based on someone's letter, noting that the City Council has not looked at the legislation.

Mayor Pro Tempore Sellers noted that procedurally, the City Council established a process whereby all legislative items are referred to the legislative committee. He recommended that the Council continue to do so. He did not believe that there would be any opposition to the bill but felt that it would be helpful to get questions answered.

Council Member Carr stated his support of referring this bill to the legislative committee. He said that if not endorsed, it becomes a two-year bill. He indicated that the deadline to review this bill by the House of Origin is this Friday, otherwise it becomes a two-year bill.

Action: *On a motion by Mayor Kennedy and seconded by Council Member Tate, the City Council, on a 4-1 vote with Council Member Carr voting no, Adopted Resolution No. 5479, Endorsing the Campaign to "Fix California Nursing Homes Now;" and **Directed** the City Clerk to Mail a Copy of Resolution No. 5479 to the South Bay AFL-CIO Labor Council.*

Council Member Carr stated that he did not oppose the legislation or its intent. However, he did not believe that this is the right process for the City Council to use in looking at legislation.

Council Member Tate agreed that further discussion is needed on timelines of bills.

SECOND READING OF ORDINANCE:

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council **Adopted** the following Ordinances:*

19. ADOPT ORDINANCE NO. 1507, NEW SERIES

An Ordinance of the City Council of the City of Morgan Hill Repealing Chapter 12.04 (Sidewalk Use) of Title 12 (Streets, Sidewalks and Public Places) of the Municipal Code of the City of Morgan Hill Regarding Sidewalk Use and Adding Chapter 12.04 (Sidewalk Encroachment) of Title 12 (Streets, Sidewalks and Public Places) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; Noes: None; ABSTAIN: None; ABSENT: None.

20. ADOPT ORDINANCE NO. 1508, NEW SERIES

An Ordinance of the City Council of the City of Morgan Hill Repealing Chapter 9.10 (Loitering) of Title 9 (Public Peace, Morals and Welfare) of the Municipal Code of the City of Morgan Hill and Enacting Chapter 9.10 (Loitering) of Title 9 (Public Peace, Morals and Welfare) of the Municipal Code of the City of Morgan Hill Regarding Prohibitions Against Loitering by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; Noes: None; ABSTAIN: None; ABSENT: None.

21. ADOPT ORDINANCE NO. 1509, NEW SERIES

An Ordinance of the City Council of the City of Morgan Hill Approving an Amendment to Ordinance No. 1500, New Series, to Amend the Development Agreement to Incorporate a One Year Exception to Loss of Building Allocation for Application MP-98-35: E. Dunne - First Community Housing. (APN 817-11-060) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; Noes: None; ABSTAIN: None; ABSENT: None.

22. ADOPT ORDINANCE NO. 1510, NEW SERIES

An Ordinance of the City Council of the City of Morgan Hill Amending Chapter 2.56 of the Morgan Hill Municipal Code to Allow Outside of City Residents Who Reside within the City's Sphere of Influence Area to Serve on the Architectural and Site Review Board by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; Noes: None; ABSTAIN: None; ABSENT: None.

City Council & Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore/Agency Member Sellers and seconded by Council/Agency Member Tate, the City Council/Agency Commission unanimously (5-0) approved Consent Calendar Item No. 24 as follows:*

24. JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF MAY 23, 2001

Action: *Approved the Minutes as written.*

CLOSED SESSION:

City Attorney/Agency Counsel Leichter announced the following closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION/CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority:	Government Code 54956.8 & 54956.9(c) (1 potential case)
Real Property(ies) involved:	APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)
City Negotiators:	Agency Members; Executive Director; Agency Counsel; and F. Gale Conner, Special Counsel
Property Negotiators:	San Jose Christian College
Closed Session Topic:	Potential Litigation/Real Estate Transaction Terms

2.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Section 54956.9(b) (Two Cases)

3.

CONFERENCE WITH LABOR NEGOTIATORS

Authority:	Government Code Section 54957.6
Agency Negotiators:	City Manager; Assistant to City Manager; City Attorney
Employee Organization:	AFSCME Local 101, and Unrepresented Non-Management

Employees
Unrepresented Non-management Employees:
Administrative Analyst
Legal Secretary
Accounting Technician
Custodian/Building Maintenance Worker
Government Access Technician
Human Resources Assistant
Maintenance Worker Assistant
Utility Worker Assistant

4.

**CONFERENCE WITH LEGAL COUNSEL (POTENTIAL LITIGATION) & CONFERENCE WITH
REAL PROPERTY NEGOTIATORS**

Legal Authority:	Government Code 54956.8 & 54946.9(c)
Property:	APN 825-06-002, 003, 029, 030; 36.6 acres (Railroad/Maple - Butterfield Retention Basin Site)
Negotiating Parties:	
For City:	City Manager; Public Works Director
For Property Owners:	Costa Family Partners
Closed Session Topic/Under Negotiation:	Potential Litigation & Price and Terms of Payment

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the closed session to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to closed session at 10:15 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 11:20 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that no reportable action was taken on the above listed closed session items.

2. RESOLUTION DECLARING BRUSH TO BE A NUISANCE - *Resolution No. 5480*

Council Services and Records Manager Torrez informed the City Council that she received a voice mail from the Santa Clara County Fire Marshal's office indicating that the public noticing process had not been satisfied. She recommended that the Council rescind its previous motion to adopt Resolution 5480.

Action: *On a motion by Mayor Kennedy and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Rescinded its Adoption** of Resolution No. 5480.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

No items were noted.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:21 p.m.

MINUTES RECORDED AND PREPARED BY:

Irma Torrez, City Clerk/Agency Secretary